

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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In Reply Refer To:
1610 (931) P

March 5, 2008

EMS TRANSMISSION: 3/06/08
Information Memorandum No. ID-2008-031
Expires: 09/30/09

To: District Managers
Attn: Planning and Environmental Coordinators, and National Environment Policy
Act (NEPA) Specialists

From: State Director

Subject: Use of Science in Environmental Analyses

Program Area: NEPA analysis and documentation requirements.

Purpose: The purpose of the Instruction Memorandum (IM) is to outline the process and documentation requirements to be used by all Bureau of Land Management (BLM) Districts in Idaho to demonstrate compliance with the NEPA, as it relates to accurate scientific analysis.

Policy/Action: The Council on Environmental Quality (CEQ) indicates that agencies must ensure the professional integrity, including scientific integrity, of their analyses. *"The CEQ's 40 Most Asked Questions"* states, "The 'environmental consequences' section should be devoted largely to a scientific analysis of the direct and indirect environmental effects of the proposed action and of each of the alternatives" (See Question 7). The environmental consequences section should also include a discussion of cumulative effects.

In determining whether an agency action is arbitrary and capricious, courts review the administrative record to determine if the agency considered relevant factors and articulated a rational connection between the facts found and choices made. In other words, did the agency provide reasons for its decision and are those reasons supported by facts and evidence, such as scientific information. Courts also recognize that "scientific inquiry rarely yields certainty." When scientific information is not available, professional judgment and reasoning are needed to support conclusions.

In environmental analysis documents, it is not sufficient to simply state conclusions about effects. Conclusions must be supported by reasons such as facts, evidence, analysis, and logic. Supporting evidence can include references to relevant scientific literature and technical

information. Supporting information can also include references to monitoring information, field observations, professional experience, and other unpublished data that provides relevant information. Handbook and manual direction can also provide information to support conclusions. Reasons are readily identified by ending a conclusory sentence with “because” and inserting relevant information. Without reasons and supporting evidence, conclusions are likely to be deemed arbitrary and capricious.

To demonstrate that relevant, supporting information has been used where appropriate during the preparation of environmental analyses, the NEPA document should contain citations to both relevant scientific and technical information. Relevant scientific and technical information includes, but is not limited to, articles, studies, reports, professional experience, monitoring data, and field observations. The NEPA document may also contain references to gray literature, such as Government publications, conference proceedings, technical reports, or other unpublished information.

When citing scientific and technical information, demonstrate the relevance and limitations of the information to the issue at hand. Determining relevance can include considerations such as similar habitat or ecological types, same broad geographic area, and/or closely related species. The scientific information used and cited should address a management question relevant to the purpose and need, and assist in the management decision process.

If contradictory information exists, it should be disclosed in the project record. This includes conflicting opinions among resource specialists or Idaho team members as well as contradictory scientific information. The project record should include an explanation of why the information was not used or how the differences in opinion were resolved.

The project record should also demonstrate that scientific information submitted by external sources has been considered. This can include using the information to complete or update the environmental analysis or explaining why the information was not used. When soliciting public comments, letters and other notices should encourage commenters to be as specific as possible when citing to scientific literature.

Formally recognized cooperating agencies and other partners frequently have technical or subject matter expertise that contributes to the analysis process. Where cooperators and partners provide technical and scientific information or professional expertise in support of environmental analyses, they should provide citations and interpretations related to that information. When scientific and technical information from cooperating agencies and partners is used and these partners do not assist in preparing the environmental analyses, interpretations should be discussed with them to ensure that the interpretations are appropriate.

Timeframe: This IM is effective upon receipt.

Budget Impact: No overall budget impact is expected.

Background: The CEQ regulations (40 CFR 1502.24) require that “Agencies shall insure the professional integrity, including scientific integrity of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in

the statement.” Recent court decisions have highlighted the importance of clearly demonstrating the use of science in decision-making.

Manual/Handbook Sections Affected: None

Coordination: The Twin Falls District Leadership Team was involved in the development of this IM. District managers were contacted for input to this policy.

Contact: For further information, contact Margaret Van Gilder, State NEPA Specialist, at (208) 373-3970.

Boise District with Union: Management is reminded to notify and satisfy any bargaining requirements prior to implementation.

Signed by:
Thomas H. Dyer

Authenticated by:
Melissa Maiden
Administrative Assistant

cc:
Field Office Managers